

**United States Court of Appeals**  
**FOR THE EIGHTH CIRCUIT**

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No. 02-3334

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Richard G. Kelley,

Appellant,

v.

West Teleservices, Inc.

Appellee.

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\* Appeal from the United States

\* District Court for the

\* Western District of Arkansas.

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\* [UNPUBLISHED]

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Submitted: May 22, 2003

Filed: May 28, 2003

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Before MORRIS SHEPPARD ARNOLD, BYE, and RILEY, Circuit Judges.

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PER CURIAM.

Richard Kelley appeals from the district court's<sup>1</sup> adverse grant of summary judgment in his employment action against West Teleservices (West), in which he had alleged race and gender discrimination based on West's failure to promote him. Having carefully reviewed de novo the record and considered the parties' briefs, we agree with the district court's bases for granting summary judgment. See Whitley v. Peer Review Sys., Inc., 221 F.3d 1053, 1055 (8th Cir. 2000) (standard of review).

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<sup>1</sup>The Honorable Harry F. Barnes, United States District Judge for the Western District of Arkansas.

We also conclude that the district court did not err in denying the parties' first set of summary judgment motions as premature; in refusing to strike West's answer, or to grant Kelley's related motion for sanctions; and in determining that West's second motion for summary judgment was ripe for decision, particularly since Kelley himself had moved a second time for summary judgment, and had not sought postponement of the court's ruling on West's summary judgment motion under Federal Rule of Civil Procedure 56(f).

Accordingly, we affirm. See 8th Cir. R. 47B.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.